

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 00-0378
Adjusted Gross Income Tax
For the Year 1997

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ISSUE

I. Adjusted Gross Income Tax—Addback of state and local income taxes

Authority: Ind. Code § 6-3-1-3.5(b); *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381 (Ind. Tax 2004).

Taxpayer protests the addback of Riverboat Wagering Tax for adjusted gross income tax.

II. Adjusted Gross Income Tax—Credits

Authority: Ind. Code § 6-3.1-17-1

Taxpayer protests the failure to apply tax credits that it claims eliminated its tax liability.

STATEMENT OF FACTS

Taxpayer was corporation that operated a casino in Indiana. Taxpayer was assessed additional corporate income tax based on the adding back of Riverboat Wagering Tax. Taxpayer protested the assessment on two grounds. First, Taxpayer maintained that the Riverboat Wagering Tax was not a tax “based on or measured by income.” Second, Taxpayer maintained that it had an Indiana Riverboat Building Credit in excess of the proposed liabilities.

I. Adjusted Gross Income Tax—Addback of state and local income taxes

DISCUSSION

Taxpayer argues that the Riverboat Wagering Tax is not a “tax based on or measured by income” under Ind. Code § 6-3-1-3.5(b). In a published decision, the Indiana Tax Court has considered the issue of adding back the Riverboat Wagering Tax and concluded that the tax is subject to add back for corporate income tax purposes. *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381 (Ind. Tax 2004).

FINDING

Taxpayer's protest is denied.

II. Adjusted Gross Income Tax—Credits

Taxpayer also protests the imposition of the tax based on an Indiana Riverboat Building Tax Credit under Ind. Code § 6-3.1-17-1 *et. seq.*, that effectively eliminated its proposed liability. Taxpayer has provided sufficient information to substantiate this contention.

FINDING

Taxpayer's protest is sustained.

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